S.B. CIVIL WRIT PETITION NO.695/2007
Smt. Raj Kumari & Anr.
vs
State of Rajasthan & Ors.

DATE OF ORDER : - 13.7.2007

HON'BLE MR.PRAKASH TATIA,J.

Mr.CS Kotwani, for the petitioners.
Mr.OP Boob, Addl. GA for the respondents- State.

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Heard learned counsel for the parties.

According to petitioners, the petitioners' land is situated at Chak 4 BKM in Murraba no.94/57 measuring 10 bighas, Murraba no.93/64 measuring 25 bighas, Murraba no.113/8 measuring 55 bighas, Murraba no.93/55 measuring 7 bighas, Murraba no.93/56 measuring 10 bighas, Murraba no.93/63 measuring 21 bighas and Murraba no.94/49 measuring 4 bighas. In total, the petitioners are having 87.6 bighas of land situated in the above referred chak no.4 BKM. According to petitioners out of this 87.6 bighas of land, 82.50 bighas of land is command land. The petitioners submitted that petitioners are entitled to irrigation facilities treating the land as command land, but the respondents did not give the irrigation facilities only on the basis of the entries made in the revenue record despite the fact that in the record of the irrigation authorities themselves, the land is command land and land whether is

command land or not can be decided and declared by the respondents – irrigation department.

The reply has been filed by the respondents and it has been contended in the reply that presently the irrigation facilities for 60.5 bighas of land has been given to the petitioners' land situated in Chak 489 (R). It is submitted that because of the existence of one railway line in the Rakba of the petitioners, therefore, the respondents cannot give the irrigation facilities in the land in dispute.

The petitioners have placed on record several documents and in view of the fact that substantial relief of the petitioners has been admitted by stating that petitioners' land is getting irrigation facilities of 60.5 bighas of land then the irrigation department is required to consider the entire claim of the petitioners by giving irrigation facilities to their remaining land, which is command land. The irrigation authorities may also consider how the petitioners can be given irrigation facilities to the extent of their entitlement and how the damages, which may have caused to the petitioners due to railway line can be minimized.

Learned counsel for the petitioners submitted that though the respondents gave in reply that they are providing facilities to the extent of 60.5 bighas of land of the petitioners, but in fact, they are not providing this much of the irrigation facilities and some time they gave only irrigation for 17.5 bighas of land.

Since the respondents themselves admitted that petitioners were given irrigation facilities for the land measuring 60.5 bighas of land, therefore, they are required to assure for irrigation of the remaining land also.

In view of the above reasons, the writ petition of the petitioners is allowed and the Executive Engineer – Irrigation Officer is directed to consider the case of the petitioners for giving irrigation facilities to their entire land and may pass appropriate order only in accordance with rules for giving irrigation facilities to the petitioners. Since the respondents admitted that the petitioners are already given irrigation facilities for 60.5 bighas of land therefore, that irrigation is also required to be maintained. The Executive Engineer – Irrigation Officer may decide the claim of the petitioner for rest of the land within a period of one month from the date of submitting the certified copy of this order by the petitioners to the Executive Engineer.

(PRAKASH TATIA), J.

c.p.goyal/-